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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91187611
Party	Plaintiff Dwell LLC
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Submission	Answer to Counterclaim
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Date	02/20/2009
Attachments	Answer to Counterclaim.pdf (3 pages)(84191 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DWELL LLC,)	Opposition No.: 91187611
)	
Opposer,)	
)	Serial No. 77/502,388
v.)	Filed: June 18, 2008
)	Mark: DWELL ATLANTA
JASON LAPENE,)	Published: November 11, 2008
)	
Respondent.)	ANSWER TO COUNTERCLAIM
)	

DWELL LLC (“Dwell” or “Opposer”) hereby answers the counterclaim filed by Jason LaPene (“LaPene” or “Respondent”) to cancel Dwell’s U.S. Trademark Registration No. 2,452,089 (“Dwell Registration”) on the basis of fraud (“Counterclaim”). LaPene’s allegations that Dwell filed false declarations in connection with the goods and services offered in connection with the Dwell Registration have no basis in law or fact, and Dwell denies all of them.

Dwell responds in paragraph numbers 1 to 2 below to the corresponding paragraph numbers in the Counterclaim.

1. Dwell denies each and every allegation of Paragraph 1 of the Counterclaim.
2. Dwell denies each and every allegation of Paragraph 2 of the Counterclaim.

AFFIRMATIVE DEFENSES

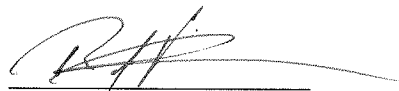
1. LaPene is barred from bringing this Counterclaim because, on information and belief, he has acted with unclean hands by, amongst other things, attempting to obtain rights in

intent-to-use trademark applications for other DWELL-formative marks, even though doing so is contrary to law and, and on information and belief, he has no bona fide intent to use them.

2. The allegations of the Counterclaim fail to state a claim upon which relief may be granted.

WHEREFORE, Dwell prays that LaPene take nothing by the Counterclaim, and that the Counterclaim be dismissed in its entirety, with prejudice.

Respectfully submitted,



Raffi V. Zerounian
Attorneys for Opposer

Dated: February 20, 2009

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Dwell LLC

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2009, I caused the foregoing **ANSWER TO COUNTERCLAIM** to be served by United States mail, postage prepaid, in an envelope addressed to:

Jason LaPene
1827 Appaloosa Mill Ct.,
Buford, GA 30519

Stephen G. Janoski
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Raffi V. Zerounian